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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

No. 1200

DIANA KEARNY POWELL, *Petitioner*,

v.

COMMITTEE ON ADMISSIONS AND GRIEVANCES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, *Respondent*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

BRIEF FOR RESPONDENT IN OPPOSITION

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PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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BRIEF FOR RESPONDENT IN OPPOSITION

QUESTION PRESENTED

Whether the United States District Court for the District of Columbia properly exercised its discretion in denying a motion by the petitioner, a disbarred lawyer, for reinstatement as a member of the bar.

STATEMENT

The petitioner, a member of the Bar of the United States District Court for the District of Columbia, was disbarred by an order of that Court entered April 7, 1966. (Order of Disbarment, April 7, 1966) The grounds of the order of disbarment were that petitioner had been guilty of professional misconduct and conduct prejudicial to the administration of justice, in that the petitioner, in a pleading filed in the District Court, had without justification or foundation in fact made false and scandalous allegations of misconduct, fraud and corruption against Judge Holtzoff of the District Court and Judge Burger of the United States Court of Appeals for the District of Columbia Circuit. (Findings and Conclusions, April 7, 1966)[1]

The order of disbarment was affirmed by the United States Court of Appeals for the District of Columbia Circuit in an unreported opinion filed January 12, 1967. A petition for a writ of certiorari was denied by this Court May 8, 1967 and rehearing was denied June 12, 1967. (No. 1258, October Term 1966)[2] There-

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[1] Section 11-2102 D.C. Code (1967), 77 Stat. 504, Dec. 23, 1963 provides in part:

> "The United States District Court for the District of Columbia may censure, suspend from practice, or expel a member of its bar for crime, misdemeanor, fraud, deceit, malpractice, professional misconduct, or conduct prejudicial to the administration of justice. * * *"

[2] A more detailed statement of the petitioner's misconduct may be found in the respondent's brief in opposition to her petition for a writ of certiorari in No. 1258, October Term 1966. Her actions plainly constituted professional misconduct and conduct prejudicial to the administration of justice. *Duke* v. *Committee on Grievances*, 65 App. D.C. 284, 82 F. 2d 890, cert. den. 298 U.S. 662 (1936).

after the petitioner filed in the District Court a motion for reinstatement. (Motion for Reinstatement, etc., filed June 20, 1967) The motion was denied by the District Court. (Order, filed June 26, 1967) The petitioner appealed from this order to the United States Court of Appeals for the District of Columbia Circuit, which affirmed, without opinion. (Judgment, December 22, 1967)

ARGUMENT

The record discloses that the petitioner presented no new material to the District Court in support of her motion for reinstatement. She merely repeated the contentions which had been previously considered and rejected, while at the same time she reiterated her scandalous and unfounded attacks upon Judge Burger and Judge Holtzoff. In these circumstances it is plain that the District Court properly exercised its discretion in denying the motion for reinstatement.[3]

The language of the United States Court of Appeals in *Fletcher* v. *Evening Star Newspaper Co.*, 72 App. D.C. 303, 114 F. 2d 582, cert. den. 312 U.S. 694 (1940) is apposite here. That case involved repeated attacks by one Fletcher upon an order of the District Court disbarring him. In rejecting his challenge to the order the Court of Appeals said (72 App. D.C. 308):

> "We have spelled out painstakingly once more the reasons for our decision. But we think it not inappropriate to say, on doing so for the fifth time, that there should be an end at some time to litiga-

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[3] The matter of disbarment is within the sound discretion of the Court. *Ex parte Burr*, 9 Wheaton 529 (1824); *Ex parte Secombe*, 19 How. 9 (1857); see *Carver* v. *Clephane*, 78 U.S. App. D.C. 91, 137 F. 2d (1943).

tion and relitigation of the same issues. Forbearance has been exercised in the face of appellant's persistent refusal to concede the jurisdiction of the courts whose aid he so constantly invokes. It has been extended on each occasion in order that we might not magnify the hurt which an aged man unfortunately has done to himself. We sympathize with him in his plight, but we cannot repudiate action heretofore taken on full and careful consideration of facts and law and which, now as then, we think was taken rightly."

CONCLUSION

It is submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted,

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